

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1608 OF 2014

Ajay Ramsevak SinghApplicant

V/s.

The State of MaharashtraRespondent

WITH
CRIMINAL APPLICATION NO. 386 OF 2015
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1608 OF 2014

Virendra Gopal SinghIntervener

IN THE MATTER BETWEEN

Ajay Ramsevak SinghApplicant

V/s.

The State of MaharashtraRespondent

Mr. Shirish Gupte Senior Counsel i/b Mr. Satish Mishra Advocate for
Applicant

Mr. Pradeep N. Chavan Advocate for Intervener

Ms. P. P. Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 24th JUNE 2015

PC :

1) Heard. This is an application under section 438 of Code of Criminal

Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 434 of 2014 registered at Kolsewadi Police Station for offence punishable under sections 420, 341, 448, 504, 506 of Indian Penal Code.

2) It is the case of prosecution that on 18/11/2014, one Virendra Gopal Sinh lodged a report at the police station, alleging therein that on 20/04/2010, he had purchased flat from present applicant for consideration of Rs. 5,00,000/-. A notarized agreement was entered into between the parties. One year thereafter, present applicant is alleged to have asked the purchasers, including complainant to vacate the said premises on the ground that on 12/03/2014 and 20/03/2014, he had requested Kalyan Dombivli Municipal Corporation (KDMC) to demolish the said house and shops. Occupants of the said building had enquired with KDMC and were informed that it is an illegal structure. Upon further enquiry, it was revealed that present applicant had constructed the said building without permission of KDMC. On the basis of the said report, crime no. 434 of 2014 was registered against the applicant.

3) Perused papers of investigation. It appears from papers of investigation that in the year 1979, one Gajanan Mhatre had purchased the said plot from Namdeo Gaikwad and his family. He was running a saw mill on the said plot.

He had then constructed a few rooms and rented the same to various people. He had then given the said plot to one Anupam Builder for the purpose of development. Anupam Builder had constructed the said building without obtaining permission from KDMC. Thereafter, KDMC demolished the said structure being an illegal structure. Thereafter, the builder to whom Mr. Mhatre had sold the house, had started demanding money and in order to arrange for funds, he was looking out for builder to develop the said property. At that juncture, he met present applicant. Present applicant had assured him that he would be taking permission from KDMC and would then develop the said property. On 29/11/2008, Mr. Mhatre had entered into an agreement with present applicant on a non judicial stamp of Rs. 100/-. Said agreement was notarized. The building was in a dilapidated condition. Present applicant had undertaken repairs of the said building cursorily. He had not obtained any permission from KDMC. He had sold reconstructed/repared flats to various people. Shriram Apartments was never refurnished but superfluous repairs were undertaken without the permission and the structure which was demolished by KDMC was shown to be reconstructed and resold to various people. KDMC had then issued notices to the residents of the said building.

4) It is pertinent to note that on 12/03/2014, present applicant had given a letter to Zonal Officer of KDMC stating therein that present structure i.e. Shriram Apartment is illegal building. He had given names of residents of the said building and requested Zonal Officer to register offences against the said persons. A similar letter was written by present applicant to KDMC on 20/03/2014. He had specifically informed KDMC that Shriram Apartment is an illegal structure. Papers of investigation clearly reveal that it is present applicant who had built the said flats and sold to complainant and others and he has given an admission that it is an illegal building. He had sold the flats for Rs. 5,00,000/- each.

5) Learned senior counsel for the applicant submits that on 02/07/2012, applicant had purchased the said property. He had impressed upon the purchasers that he has built the said building in accordance with rules and regulations and permission of KDMC. However, taking into consideration the very admission in the form of an application given to KDMC by the present applicant, it is abundantly clear that applicant has cheated purchasers of the said flat by selling flats which were built without any permission from KDMC. Applicant was put into possession by Shri. Mhatre on the basis of

General Power of Attorney executed on a non judicial stamp. In view of this, it is clear that applicant has committed offences alleged against him.

ORDER

- (i) Application, being sans merits, stands rejected.
- (ii) Intervention application is heard, allowed and disposed of.

(SMT. SADHANA S. JADHAV, J.)